



General Assembly

February Session, 2004

**Amendment**

LCO No. 3895

**\*HB0535503895HDO\***

Offered by:

REP. ABRAMS, 83<sup>rd</sup> Dist.

REP. BACCHIOCHI, 52<sup>nd</sup> Dist.

To: Subst. House Bill No. 5355

File No. 292

Cal. No. 210

**"AN ACT CONCERNING THE MEDICAL USE OF MARIJUANA."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2004*) As used in sections 1 to  
4 9, inclusive, of this act, unless the context otherwise requires:

5 (1) "Debilitating medical condition" means (A) cancer, glaucoma,  
6 positive status for human immunodeficiency virus or acquired  
7 immune deficiency syndrome, or the treatment of any such conditions,  
8 including, but not limited to, chemotherapy, (B) a chronic or  
9 debilitating disease or medical condition, or the treatment thereof, that  
10 produces one or more of the following: (i) Cachexia or wasting  
11 syndrome; (ii) severe pain; (iii) severe nausea; (iv) seizures; or (v)  
12 severe and persistent muscle spasms, or (C) any other medical  
13 condition approved by the Department of Public Health, pursuant to  
14 regulations that the Commissioner of Public Health may adopt, in  
15 accordance with chapter 54 of the general statutes, in response to a

16 request from a physician or potentially qualifying patient;

17 (2) "Marijuana" has the same meaning as provided in section 21a-  
18 240 of the general statutes, as amended;

19 (3) "Medical use" means the acquisition and distribution, possession,  
20 cultivation, use or transportation of marijuana or paraphernalia  
21 relating to marijuana to alleviate the symptoms or effects of a  
22 qualifying patient's symptoms, but does not include any such use of  
23 marijuana by any person other than the qualifying patient. For the  
24 purposes of this subdivision, "acquisition and distribution" means the  
25 transfer of marijuana and paraphernalia relating to marijuana from the  
26 primary caregiver to the qualifying patient;

27 (4) "Physician" means a person who is licensed under the provisions  
28 of chapter 370 of the general statutes, but does not include a physician  
29 assistant, as defined in section 20-12a of the general statutes;

30 (5) "Primary caregiver" means a person, other than the qualifying  
31 patient and the qualifying patient's physician, who is eighteen years of  
32 age or older and has agreed to undertake responsibility for managing  
33 the well-being of the qualifying patient with respect to the medical use  
34 of marijuana, provided, in the case of a qualifying patient lacking legal  
35 capacity, such person shall be a parent, guardian or person having  
36 legal custody of such qualifying patient;

37 (6) "Qualifying patient" means a person who is eighteen years of age  
38 or older and has been diagnosed by a physician as having a  
39 debilitating medical condition;

40 (7) "Usable marijuana" means the dried leaves and flowers of the  
41 marijuana plant, and any mixtures or preparations thereof, that are  
42 appropriate for the medical use of marijuana, but does not include the  
43 seeds, stalks and roots of the plant; and

44 (8) "Written certification" means a statement signed by the  
45 qualifying patient's physician stating that, in the physician's

46 professional opinion, the qualifying patient has a debilitating medical  
47 condition and the potential benefits of the medical use of marijuana  
48 would likely outweigh the health risks of such use to the qualifying  
49 patient.

50 Sec. 2. (NEW) (*Effective October 1, 2004*) (a) A qualifying patient shall  
51 not be subject to arrest or prosecution, penalized in any manner,  
52 including, but not limited to, being subject to any civil penalty, or  
53 denied any right or privilege, including, but not limited to, being  
54 subject to any disciplinary action by a professional licensing board, for  
55 the medical use of marijuana if:

56 (1) The qualifying patient has been diagnosed by a physician as  
57 having a debilitating medical condition;

58 (2) The qualifying patient's physician has issued a written  
59 certification to the qualifying patient for the medical use of marijuana  
60 after the physician has prescribed, or determined it is not in the best  
61 interest of the patient to prescribe, prescription drugs to address the  
62 symptoms for which the certification is being issued;

63 (3) The amount of marijuana jointly possessed by the qualifying  
64 patient and the primary caregiver for medical use does not exceed five  
65 marijuana plants and one ounce of usable marijuana; and

66 (4) The cultivation of such marijuana occurs in a secure indoor  
67 facility.

68 (b) Subsection (a) of this section does not apply to:

69 (1) Any medical use of marijuana that endangers the health or well-  
70 being of another person; and

71 (2) The medical use of marijuana (A) in a motor bus or a school bus,  
72 as defined respectively in section 14-1 of the general statutes, as  
73 amended, or in any moving vehicle, (B) in the workplace, (C) on any  
74 school grounds, (D) at any public park, public beach, public recreation  
75 center or youth center or any other place open to the public, or (E) in

76 the presence of a person under the age of eighteen. For the purposes of  
77 this subdivision, "presence" means within the direct line of sight of the  
78 medical use of marijuana or exposure to second-hand marijuana  
79 smoke, or both.

80 (c) A qualifying patient shall have not more than one primary  
81 caregiver at any time. A primary caregiver may not be responsible for  
82 the care of more than one qualifying patient at any time. A primary  
83 caregiver who is registered in accordance with subsection (a) of section  
84 3 of this act shall not be subject to arrest or prosecution, penalized in  
85 any manner, including, but not limited to, being subject to any civil  
86 penalty, or denied any right or privilege, including, but not limited to,  
87 being subject to any disciplinary action by a professional licensing  
88 board, for the acquisition, distribution, possession, cultivation or  
89 transportation of marijuana or paraphernalia related to marijuana on  
90 behalf of a qualifying patient, provided the amount of any marijuana  
91 so acquired, distributed, possessed, cultivated or transported, together  
92 with the amount of marijuana jointly possessed by the qualifying  
93 patient and the primary caregiver, shall not exceed five marijuana  
94 plants and one ounce of usable marijuana. For the purposes of this  
95 subsection, "distribution" or "distributed" means the transfer of  
96 marijuana and paraphernalia related to marijuana from the primary  
97 caregiver to the qualifying patient.

98 (d) Any written certification for the medical use of marijuana issued  
99 by a physician under this section shall be valid for a period not to  
100 exceed one year from the date such written certification is signed by  
101 the physician.

102 Sec. 3. (NEW) (*Effective October 1, 2004*) (a) Each qualifying patient  
103 who is issued a written certification for the medical use of marijuana,  
104 and the primary caregiver of such qualifying patient, shall register  
105 with the Department of Agriculture and Consumer Protection. Such  
106 registration shall be effective until the expiration of the written  
107 certification issued by the physician. The qualifying patient and the  
108 primary caregiver shall provide sufficient identifying information, as

109 determined by the department, to establish the personal identity of the  
110 qualifying patient and the primary caregiver. The qualifying patient or  
111 the primary caregiver shall report any change in such information to  
112 the department not later than five business days after such change. The  
113 department shall issue a registration certificate to the qualifying  
114 patient and to the primary caregiver and may charge a reasonable fee,  
115 not to exceed twenty-five dollars, for a registration under this  
116 subsection.

117 (b) Upon the request of a law enforcement agency, the Department  
118 of Agriculture and Consumer Protection shall verify whether a  
119 qualifying patient or a primary caregiver has registered with the  
120 department in accordance with subsection (a) of this section and may  
121 provide reasonable access to registry information obtained under this  
122 section for law enforcement purposes. Except as provided in this  
123 subsection, information obtained under this section shall be  
124 confidential and shall not be subject to disclosure under the Freedom  
125 of Information Act, as defined in section 1-200 of the general statutes.

126 Sec. 4. (NEW) (*Effective October 1, 2004*) (a) The Commissioner of  
127 Agriculture and Consumer Protection may adopt regulations, in  
128 accordance with chapter 54 of the general statutes, to establish (1) a  
129 required form for written certifications for the medical use of  
130 marijuana issued by physicians under section 2 of this act, and (2)  
131 requirements for registrations under section 3 of this act.

132 (b) The Commissioner of Agriculture and Consumer Protection  
133 shall collect a user fee from each qualifying patient to whom a written  
134 certification for the medical use of marijuana is issued under section 2  
135 of this act for the purpose of offsetting the direct and indirect costs of  
136 administering the provisions of sections 1 to 9, inclusive, of this act.  
137 Such user fee shall be in addition to any registration fee charged under  
138 subsection (a) of section 3 of this act and shall be established by  
139 regulation adopted by the commissioner in accordance with chapter 54  
140 of the general statutes. All user fees collected by the commissioner  
141 pursuant to this subsection shall be paid to the State Treasurer and

142 credited to the account established pursuant to section 10 of this act.

143 Sec. 5. (NEW) (*Effective October 1, 2004*) Nothing in sections 1 to 9,  
144 inclusive, of this act shall be construed to require health insurance  
145 coverage for the medical use of marijuana.

146 Sec. 6. (NEW) (*Effective October 1, 2004*) (a) A qualifying patient or a  
147 primary caregiver may assert the medical use of marijuana as an  
148 affirmative defense to any prosecution involving marijuana, or  
149 paraphernalia relating to marijuana, under chapter 420b of the general  
150 statutes, provided such qualifying patient or such primary caregiver  
151 has strictly complied with the requirements of sections 1 to 9,  
152 inclusive, of this act.

153 (b) No person shall be subject to arrest or prosecution solely for  
154 being in the presence or vicinity of the medical use of marijuana as  
155 permitted under sections 1 to 9, inclusive, of this act.

156 Sec. 7. (NEW) (*Effective October 1, 2004*) A physician shall not be  
157 subject to arrest or prosecution, penalized in any manner, including,  
158 but not limited to, being subject to any civil penalty, or denied any  
159 right or privilege, including, but not limited to, being subject to any  
160 disciplinary action by the Connecticut Medical Examining Board or  
161 other professional licensing board, for providing a written certification  
162 for the medical use of marijuana if:

163 (1) The physician has diagnosed the qualifying patient as having a  
164 debilitating medical condition;

165 (2) The physician has explained the potential risks and benefits of  
166 the medical use of marijuana to the qualifying patient and, if the  
167 qualifying patient lacks legal capacity, to a parent, guardian or person  
168 having legal custody of the qualifying patient; and

169 (3) The written certification issued by the physician is based upon  
170 the physician's professional opinion after having completed a full  
171 assessment of the qualifying patient's medical history and current

172 medical condition made in the course of a bona fide physician-patient  
173 relationship.

174 Sec. 8. (NEW) (*Effective October 1, 2004*) Any marijuana,  
175 paraphernalia relating to marijuana, or other property seized by law  
176 enforcement officials from a qualifying patient or a primary caregiver  
177 in connection with a claimed medical use of marijuana under sections  
178 1 to 9, inclusive, of this act shall be returned to the qualifying patient or  
179 the primary caregiver immediately upon the determination by a court  
180 that the qualifying patient or the primary caregiver is entitled to the  
181 medical use of marijuana under sections 1 to 9, inclusive, of this act, as  
182 evidenced by a decision not to prosecute, a dismissal of charges or an  
183 acquittal. Law enforcement officials seizing live marijuana plants as  
184 evidence shall not be responsible for the care and maintenance of such  
185 plants. This section does not apply to any qualifying patient or  
186 primary caregiver who fails to comply with the requirements for the  
187 medical use of marijuana under sections 1 to 9, inclusive, of this act.

188 Sec. 9. (NEW) (*Effective October 1, 2004*) (a) Any person who makes a  
189 fraudulent representation to a law enforcement official of any fact or  
190 circumstance relating to the medical use of marijuana in order to avoid  
191 arrest or prosecution under chapter 420b of the general statutes shall  
192 be guilty of a class C misdemeanor.

193 (b) Any person who makes a fraudulent representation to a law  
194 enforcement official of any fact or circumstance relating to the issuance  
195 of a written certification for the medical use of marijuana by a  
196 physician to which section 7 of this act does not apply shall be guilty of  
197 a class A misdemeanor.

198 Sec. 10. (NEW) (*Effective July 1, 2004*) There is established a medical  
199 marijuana administration account which shall be a separate,  
200 nonlapsing account within the General Fund. The account shall  
201 contain the fees collected pursuant to subsection (b) of section 4 of this  
202 act, and any other moneys required by law to be deposited in the  
203 account, and shall be held in trust separate and apart from all other

204 moneys, funds and accounts. Any balance remaining in the account at  
205 the end of any fiscal year shall be carried forward in the account for  
206 the fiscal year next succeeding. Investment earnings credited to the  
207 account shall become part of the account. Amounts in the account shall  
208 be expended only pursuant to appropriations by the General Assembly  
209 for the purpose of providing funds for administering the provisions of  
210 sections 1 to 9, inclusive, of this act.

211 Sec. 11. Subsection (a) of section 21a-246 of the general statutes, as  
212 amended by section 146 of public act 03-6 of the June 30 special  
213 session, is repealed and the following is substituted in lieu thereof  
214 (*Effective October 1, 2004*):

215 (a) No person within this state shall manufacture, wholesale,  
216 repackage, supply, compound, mix, cultivate or grow, or by other  
217 process produce or prepare, controlled substances without first  
218 obtaining a license to do so from the Commissioner of Agriculture and  
219 Consumer Protection and no person within this state shall operate a  
220 laboratory for the purpose of research or analysis using controlled  
221 substances without first obtaining a license to do so from the  
222 Commissioner of Agriculture and Consumer Protection, except that  
223 such activities by pharmacists or pharmacies in the filling and  
224 dispensing of prescriptions, or activities incident thereto, or the  
225 dispensing or administering of controlled substances by dentists,  
226 podiatrists, physicians [,] or veterinarians, or other persons acting  
227 under their supervision, in the treatment of patients shall not be  
228 subject to the provisions of this section, and provided laboratories for  
229 instruction in dentistry, medicine, nursing, pharmacy, pharmacology  
230 and pharmacognosy in institutions duly licensed for such purposes in  
231 this state shall not be subject to the provisions of this section except  
232 with respect to narcotic drugs and schedule I and II controlled  
233 substances. Upon application of any physician licensed pursuant to  
234 chapter 370, the Commissioner of Agriculture and Consumer  
235 Protection shall without unnecessary delay, license such physician to  
236 possess and supply marijuana for [the treatment of glaucoma or the  
237 side effects of chemotherapy] medical use pursuant to sections 1 to 9,



238 inclusive, of this act. No person [without] outside this state shall sell or  
 239 supply controlled substances within [the] this state without first  
 240 obtaining a license to do so from the Commissioner of Agriculture and  
 241 Consumer Protection, provided no such license shall be required of a  
 242 manufacturer whose principal place of business is located outside [the]  
 243 this state and who is registered with the federal Drug Enforcement  
 244 [Agency] Administration or other federal agency, and who files a copy  
 245 of such registration with the appropriate licensing authority under this  
 246 chapter.

247 Sec. 12. Section 21a-253 of the general statutes, as amended by  
 248 section 146 of public act 03-6 of the June 30 special session, is repealed  
 249 and the following is substituted in lieu thereof (*Effective October 1,*  
 250 *2004*):

251 Any [person] qualifying patient or primary caregiver, as defined  
 252 respectively in section 1 of this act, may possess or have under [his]  
 253 such qualifying patient's or primary caregiver's control a quantity of  
 254 marijuana less than or equal to that quantity supplied [to him]  
 255 pursuant to a prescription made in accordance with the provisions of  
 256 section 21a-249, as amended, by a physician licensed under the  
 257 provisions of chapter 370 and further authorized by subsection (a) of  
 258 section 21a-246, as amended by this act, by the Commissioner of  
 259 Agriculture and Consumer Protection to possess and supply marijuana  
 260 for [the treatment of glaucoma or the side effects of chemotherapy]  
 261 medical use pursuant to sections 1 to 9, inclusive, of this act. The  
 262 provisions of this section do not apply to the possession or control of  
 263 marijuana in a quantity that exceeds the amount permitted for medical  
 264 use pursuant to sections 1 to 9, inclusive, of this act."

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>

Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>
Sec. 8	<i>October 1, 2004</i>
Sec. 9	<i>October 1, 2004</i>
Sec. 10	<i>July 1, 2004</i>
Sec. 11	<i>October 1, 2004</i>
Sec. 12	<i>October 1, 2004</i>